

CERTIFIED

DEC 9 8 1986

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(4) of the Internal Revenue Code.

The information that you submitted shows that you were incorporated under the laws of the State of [REDACTED]. The specific purposes for which you were formed, as stated in your Articles of Incorporation are: Administration and operation of property owned on a condominium basis. To provide for maintenance, preservation and architectural control of the residence units and common properties within that certain tract of property described in the Declaration of Condominium Ownership and By-laws, Easements, Restrictions and Covenants for the [REDACTED] executed by [REDACTED] as trustee under a trust agreement dated [REDACTED] and known as Trust Number [REDACTED], which declaration is hereby incorporated in these articles to promote health, safety and welfare of the residents within the above described property.

Your income is from annual assessments and special assessments against unit owners. These assessments are used exclusively to maintain, repair, and improve the outdoors and other common elements. The Association hires contractors to do the landscaping, repairs and maintenance. The Association purchases insurance and electricity to light the exterior.

Section 501(c)(4) of the Internal Revenue Code grants exemption to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Section 1.501(c)(4) - 1(a)(2)(i) of the Internal Revenue Regulations provide that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	10-6-86	10-7-86	12/2/86	12/2/86	12/2/86	FEB 10 1987	

Section 1.501(c)(4)-1 of the Income Tax Regulations states (a) Civic organizations-(1) In general. A civic league or organization may be exempt as an organization described in Section 501(c)(4) if--

(i) It is not organized or operated for profit; and
(ii) It is operated exclusively for the promotion of social welfare.

(2) Promotion of social welfare - (i) In general. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A "social welfare" organization will qualify for exemption as a charitable organization if it falls within the definition of "charitable" set forth in paragraph (d) (2) of Section 1.501(c)(3)-1 and is not an "action" organization as set forth in paragraph (c)(3) of Section 1.501(c)(3)-1. (ii) Political or social activities. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. A social welfare organization may qualify under Section (c)(4) even though it is an "action" organization described in paragraph (c)(3) (ii) or (iv) of Section 1.501(c)3-1 if it otherwise qualifies under this Section.

(b) Local associations of employees. Local associations of employees described in section 501(c)(4) are expressly entitled to exemption under Section 501(a). As conditions to exemption, it is required (1) that the membership of such an association be limited to the employees of a designated person or persons in a particular municipality, and (2) that the net earnings of the association be devoted exclusively to charitable, educational, or recreational purposes. The word "local" is defined in paragraph (b) of Section 501(c)(12)-1. See paragraph (d)(2) and (3) of Section 1.501(c)(3)-1 with reference to the meaning of "charitable" as used in this Section.

The Internal Revenue Service takes the position that in order for an organization to qualify for exemption from Federal Income Tax as a social welfare organization described in Section 501(c)(4) of the Code, it must be primarily engaged in promoting in some way the common good and general welfare of the community as a whole.

Rev. Rul. 74-17, 1979-1 C.B. 130 holds that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under Section 501(c)(4) of the Code.

By virtue of the essential nature and structure of a condominium system of ownership, the rights, duties, privileges and immunities of the members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. In addition, condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

Since your activities are for the private benefit of your members, you cannot be said to be operated exclusively for the promotion of social welfare. (See Revenue Ruling 74-17).

After careful consideration of the evidence submitted, we have concluded that you are not primarily engaged in promoting the common good and general welfare of the people of the community, and therefore, you are not operating exclusively for the promotion of social welfare. Accordingly, we hold that you do not qualify for exemption from Federal Income Tax as a social welfare organization described in Section 501(c)(4) of the Internal Revenue Code of 1954.

Therefore, we hold that you are not exempt from Federal Income Tax as an organization described in Section 501(c)(4) of the Code and you are therefore required to file Federal Income Tax Returns, Forms 1120 or Form 1120-H.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice

Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

Please keep this determination letter in your permanent records.

If you agree with this determination please sign and return the enclosed Form 6018.

Sincerely yours,

District Director

Enclosures:

Form 6018
Publication 892